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City and Town

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Changes in Procedural Regulations Help to Streamline Appeals Before HAC

by Glenna Sheveland

HAC Implements Changes to its Regulatory Procedures

Effective July 2, 2004, the Housing Appeals Committee (HAC) began implementation of new procedural rules which allowed for, among other things, a motion practice and the use of prefiled testimony. These procedural reforms were implemented as an affirmative step towards reducing the backlog of housing development proposals pending before the HAC.

Background

The Massachusetts Comprehensive Permit Law (M.G.L. Chapter 40B, Secs. 20–23) was enacted in 1969 to promote the construction of low- and moderate-income housing. The law envisions that municipalities will work with developers to create affordable housing for individuals who would otherwise not be able to afford such an opportunity. The Comprehensive Permit Law also allows for an expedited administrative appeal to the HAC whenever a comprehensive permit is denied by a municipality or granted with conditions that might render construction of the proposed housing uneconomic and therefore impractical to build.

A decrease in available buildable land, an increase in restrictive local regulations, and most importantly, a change in the availability of qualifying funding sources, have all led to an intensified interest by developers in the use of the comprehensive permit process as a means by which to develop new housing throughout the Commonwealth. This increased demand for comprehensive permits in turn had resulted in

a backlog of appeals before the HAC. To determine ways in which the appeal process could be expedited, an Advisory Committee was formed in August of 2003, to review and recommend changes to the procedural process that had been in use, for the most part, by HAC since its inception in 1969. The Advisory Committee identified several administrative and procedural changes that it believed would substantially improve the appeal process before the HAC. The most significant changes proposed included an increase in staffing for the HAC, encouraging voluntary settlement between the parties, and changes in the procedural regulations to include a motion practice and the use of prefiled testimony.

Addition of a Motion Practice

Although not yet quantified, it is believed that the expansion of the motion practice has had an unexpected impact on the comprehensive permit appeal process. In fact, it is currently suggested that the motion practice has had the effect of promoting voluntary settlement through the early resolution of issues that are either purely procedural considerations or are based on previously resolved substantive issues of law. Although motions can be made orally, under the new procedures they are usually made in writing. The practice also allows the parties to request a hearing on the motion, which may be held at the discretion of the presiding officer. The hearing officer may also decide to deny the motion without prejudice or wait to decide the motion until completion of the hearing in the interest of expediting the hearing on the merits.

Preliminary motions must be made within 30 days after the initial conference of counsel. Municipalities should look closely at the types of preliminary motions available under 760 CMR 30.07, as they are predominately motions that a municipality would choose to make. For example, a preliminary motion may be made by the municipality to dismiss the appeal for failure of the developer to meet the eligibility requirements for approval of a comprehensive permit, or the municipality may be able to show that it has met one of the statutorily defined minimal requirements for affordable housing, or the municipality may show that the developer had attempted to file for a comprehensive permit within 12 months of having been denied or having voluntarily withdrawn a request for variance, special permit, or subdivision approval for the same piece of property and that the prior proposal included no significant amount of low- or moderate-

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From the Deputy Commissioner

During the certification process the Bureau of Local Assessment has noticed that some assessors do not

make valuation changes as a result of issues revealed during the public disclosure process. Some assessors actually discourage taxpayers from reporting valuation matters until the abatement process.

The Division of Local Services discourages these practices because we believe they are shortsighted. Waiting for the abatement process to act is problematic for two reasons. First, an early review of taxpayer's complaints can lead to the revelation of a systemic valuation problem. If it is not corrected as a result of the disclosure period then only complaining taxpayers who file abatements can be remedied while all other taxpayers with comparable problems are not afforded similar treatment. Second, making changes during the disclosure process does not affect overlay balances. Waiting until the tax rate has been set wastes money on abatements that could be used for productive community purposes.

Consequently, if the Bureau feels that insufficient time or attention has been given to the disclosure process, including not making the requisite changes prior to tax rate setting, it will insist that assessors rectify the problem prior to final certification. Assessors are encouraged to review the public disclosure section of the *Guidelines for Development of a Minimum Reassessment Program* on pages 18–19 for compliance.

Gerard D. Perry
Deputy Commissioner

Legal

in Our Opinion

Municipal Collective Bargaining Request for Funding Obligations

by Gary A. Blau

In the case of *Local 1652, International Association of Firefighters v. Town of Framingham*, 442 Mass. 463 (2004), the Supreme Judicial Court (SJC) ruled that the town bargaining representatives' request for funding an executed collective bargaining agreement could not be made contingent upon the passage of a Proposition 2½ override. In this 4–3 decision, the majority ruled that the collective bargaining law, M.G.L. Ch. 150E, Sec. 7(b) required that when an agreement was reached between a union and the town's chief executive officers, those officers must submit an unconditional request for funding to the legislative body.

The facts of the case are straightforward. The town and firefighters' union entered into a collective bargaining agreement for July 1, 2000 through June 30, 2003, which included a minimum staffing provision requiring 30 firefighters per shift. In FY02, the second year of the contract, a 7 percent budget shortfall was projected. The town manager and board of selectmen proposed a budget requesting funds to cover the minimum staffing provision (and to restore all projected budget cuts), but made the funding vote contingent on the passage of an override under M.G.L. Ch. 59, Sec. 21C(m). Alternatively, the manager and selectmen proposed a balanced budget within the town's levy limit under M.G.L. Ch. 59, Sec. 21C (Proposition 2½), which would cut all town departments by 7 percent and therefore would not be sufficient to fund the minimum staffing provision as proposed. The manager and

board recommended the contingent budget, but indicated that if the balanced budget were adopted, \$725,000 would have to be reallocated from other departments to the fire department to meet the minimum staffing obligation.

The union sought an injunction, pursuant to *Billerica v. International Association of Firefighters, Local 1495*, 415 Mass. 692 (1993), to require an unconditional appropriation request. A superior court judge so ordered and the town complied, but appealed the decision. The town voted to fund the provision, but also voted the override. The union requested the case be dismissed as moot, but the SJC agreed to a review to decide the issue as one that would be likely to recur and was in need of clarification.

The SJC held that the contingent appropriation request was not a good faith request to fully fund the contract. The majority reviewed the preceding case law concerning minimum staffing provisions, which had held they were subject to annual appropriation. *Billerica, supra* & *Boston Teacher's Union, Local 66 v. Boston*, 382 Mass. 553 (1981) & 386 Mass. 197 (1982). Nevertheless, in such circumstances the town executive officers are required to request funding of the minimum staffing provisions and to support the request, citing several Massachusetts Labor Relations Commission decisions.

The SJC majority ruled that nothing in M.G.L. Ch. 59, Sec. 21C(m) authorizes the board of selectmen to submit a budget contingent on an override and that it is town meeting that may make such contingent appropriations. However, the majority did acknowledge the role of the finance committee in making budget recommendations. The majority also found that although M.G.L. Ch. 59, Sec. 21C(m) was not listed in M.G.L.

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Focus

on Municipal Finance

FY05 Average Single-Family Tax Bills and Assessed Values

by Scott Dressel

This Focus article reviews fiscal year 2005 single-family tax bills and property values across the Commonwealth. As in previous years, this article ranks communities statewide. It also highlights some major trends and discusses the impact on single-family tax bills. The analyses are based on FY05 data reported to the Department of Revenue's Division of Local Services (DLS) by the local assessors.

Average single-family tax bills are calculated by summing the assessed value of all of the single-family parcels of each community. Dividing this total by the number of parcels results in the average single-family property value. The average value is divided by one thousand and then multiplied by the residential tax rate.

The 11 cities and towns that have adopted a residential exemption are not included in this analysis because

they do not submit sufficiently detailed data to DLS to determine their average tax bills. Two communities (Hancock and Wendell) had not set tax rates at the time this article was written. Therefore, they were excluded from the analysis as well.

Statewide Trends

Over each of the past 10 years, the average single-family tax bill has increased in both constant and actual dollars (see Figure 2). In actual dollars, the annual increase over the prior year's tax bill has ranged from 3.8 percent in 1999 to 6.7 percent in 2002. In 2005, the average bill increased by 5.2 percent. This trend has continued even as the average single-family tax rate across the Commonwealth has decreased in each of the past seven years from a high of \$14.92 per \$1,000 in 1998 to \$10.17 per \$1,000 in 2005. Much of the increase in the average bill is attributable to rising residential assessed values, stagnant growth in the commercial and industrial sectors, and relatively flat state aid budgets.

The average single-family property value realized a double-digit increase

for the fifth consecutive year. In 2005, the average value increased by 14.8 percent, from \$307,361 to \$352,911. Even in constant dollar terms, the increase reached 11.7 percent (see Figure 3).

Furthermore, the share of the total tax burden borne by residential property owners has increased in each of the past five years, from 67.9 percent in 1999 to 72.1 percent in 2005. This is mainly due to the fact that commercial, industrial, and personal (CIP) property values have not kept pace with the increasing residential values. It also reflects the rollback of Chapter 3 of the Acts of 2004.

Several "split rate" communities adopted Chapter 3 of the Acts of 2004, temporarily allowing them to increase the amount by which they shift the tax burden to CIP taxpayers. Before this provision, these communities were restricted from taxing CIP properties more than 175 percent of the taxes they would have paid under a single rate. The provision temporarily increased this limit to 200 percent but started to roll it back in 2005. By 2009 the communities that adopted the increased shift will be allowed a maximum CIP percentage of 170, down from the preexisting 175. This will likely add to the weight of the tax burden on residential taxpayers in these communities.

Aggregate state aid across the Commonwealth increased from about \$4.81 billion in 2004 to \$4.95 billion in 2005. As far back as 2002, the figure was about \$5.13 billion. Clearly, state aid has not kept pace with 2002 growing costs and services. This puts pressure on cities and towns to cover their expanding needs through using unused levy capacity or pursuing overrides.

One factor that mitigated the rate of increase in the average tax bill was a de-

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FY2005 Average Single Family Tax Bill

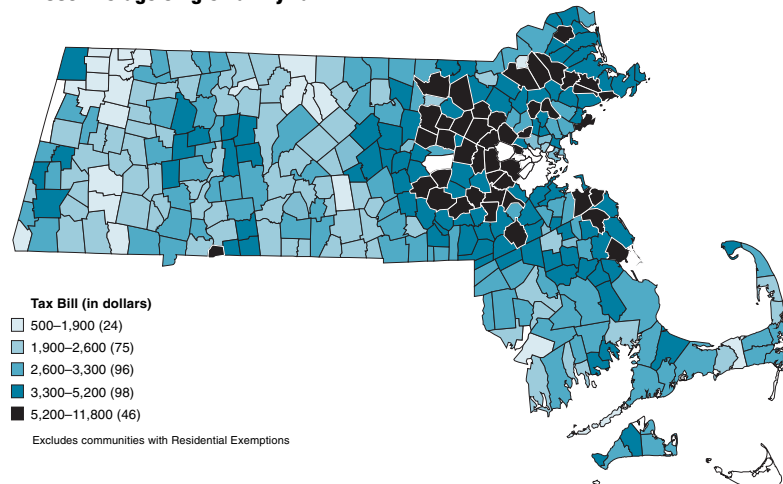


Figure 1

FY04 and FY05 Average Single-Family Tax Bills and Assessed Values

Municipality	FY04 avg. value	FY05 avg. value	Pct. change	FY04 tax bill	FY05 tax bill	Pct. change	FY05 hi-lo rank*	FY05 rate	Municipality	FY04 avg. value	FY05 avg. value	Pct. change	FY04 tax bill	FY05 tax bill	Pct. change	FY05 hi-lo rank*	FY05 rate
Abington	297,469	335,172	12.7	3,623	3,623	0.0	110	10.81	Chesterfield	151,845	154,579	1.8	2,800	2,867	2.4	192	18.55
Acton	466,751	499,657	7.1	6,549	6,900	5.4	18	13.81	Chicopee	111,968	149,123	33.2	1,951	2,034	4.3	305	13.64
Acushnet	214,000	246,611	15.2	2,517	2,688	6.8	228	10.90	Chilmark	1,524,515	1,535,213	0.7	2,790	3,009	7.8	176	1.96
Adams	100,564	105,164	4.6	1,713	1,847	7.8	310	17.56	Clarksburg	118,976	120,825	1.6	1,350	1,398	3.6	325	11.57
Agawam	148,567	172,477	16.1	2,191	2,320	5.9	276	13.45	Clinton	182,925	227,442	24.3	2,473	2,654	7.3	231	11.67
Afford	362,514	501,149	38.2	2,411	2,481	2.9	252	4.95	Cohasset	622,072	747,522	20.2	7,396	7,804	5.5	9	10.44
Amesbury	280,213	320,493	14.4	4,416	4,564	3.4	57	14.24	Colrain	130,307	139,492	7.0	2,030	2,282	12.4	275	16.36
Amherst	236,016	279,238	18.3	4,107	4,660	13.5	56	16.69	Concord	754,200	898,455	19.1	7,987	8,805	10.2	6	9.80
Andover	497,785	522,042	4.9	5,710	6,009	5.2	30	11.51	Conway	179,663	248,377	38.2	3,342	3,651	9.2	106	14.70
Aquinnah	729,143	988,564	35.6	3,376	3,588	6.3	114	3.63	Cummington	150,231	173,323	15.4	1,983	2,049	3.3	303	11.82
Arlington	414,125	415,167	0.3	4,406	4,542	3.1	58	10.94	Dalton	152,170	160,349	5.4	2,578	2,829	9.7	203	17.64
Ashburnham	188,756	214,231	13.5	2,514	2,905	15.6	186	13.56	Danvers	352,031	364,921	3.7	3,844	3,751	-2.4	100	10.28
Ashby	205,506	222,679	13.2	2,770	2,748	-0.8	215	11.81	Dartmouth	301,070	355,635	18.1	2,514	2,649	5.4	232	7.45
Ashfield	161,899	194,193	19.9	2,466	2,606	5.7	239	13.42	Dedham	361,422	384,309	6.3	3,697	4,028	9.0	87	10.48
Ashland	312,432	343,035	9.8	4,377	4,713	7.7	54	13.74	Deerfield	178,080	225,173	27.9	2,192	2,646	20.7	233	11.75
Athol	135,002	159,437	18.1	1,490	1,553	4.2	323	9.74	Dennis	345,909	381,410	10.3	1,685	1,743	3.4	317	4.57
Attleboro	187,001	270,436	44.6	2,495	2,729	9.4	219	10.09	Dighton	237,372	270,433	13.9	2,687	2,883	7.3	188	10.66
Auburn	200,116	217,684	8.8	2,341	2,580	10.2	243	11.85	Douglas	183,705	268,064	45.9	3,027	2,962	-2.1	181	11.05
Avon	186,243	290,074	55.8	2,432	2,750	13.1	214	9.48	Dover	933,673	1,068,814	14.3	8,412	9,004	7.0	5	8.44
Ayer	232,777	272,169	16.9	2,337	2,469	5.6	254	9.07	Dracut	227,853	285,669	25.8	2,752	2,835	3.0	201	9.89
Barnstable	404,619	460,173	13.7	2,675	2,784	4.1	211	6.05	Dudley	165,313	232,329	40.5	1,749	1,949	11.4	311	8.39
Barre	172,171	203,985	18.5	2,083	2,391	14.8	260	11.72	Dunstable	332,289	375,462	13.0	4,675	4,791	2.5	52	12.76
Becket	157,431	163,713	4.0	1,562	1,657	6.1	320	10.12	Duxbury	510,324	576,186	12.9	5,782	5,843	1.1	32	10.14
Bedford	444,397	486,567	9.5	5,031	5,440	8.1	39	11.18	E. Bridgewater	284,409	301,389	8.4	3,069	3,402	10.1	136	11.03
Belchertown	186,570	219,560	17.7	3,116	3,187	2.3	158	15.11	E. Brookfield	139,808	222,168	58.3	1,943	2,293	18.0	274	10.36
Bellingham	245,500	260,318	6.0	2,553	2,684	5.1	229	10.31	E. Longmeadow	168,204	217,798	29.5	3,487	3,681	5.6	104	16.90
Belmont	689,809	719,541	4.2	7,388	7,686	4.0	10	10.69	Eastham	396,729	420,278	5.9	2,031	2,198	8.2	288	5.23
Berkley	249,073	288,954	20.3	2,272	2,342	3.1	269	7.82	Easthampton	166,035	193,178	16.7	2,263	2,385	5.4	263	12.31
Berlin	332,550	372,862	12.1	4,183	4,519	8.0	60	12.12	Easton	335,229	377,850	12.7	3,825	4,039	5.6	85	10.69
Bernardston	251,905	351,697	-0.1	2,280	2,609	14.4	238	17.20	Edgartown	790,712	957,862	21.1	2,775	2,921	5.3	185	3.05
Beverly	372,946	422,989	13.4	4,073	4,247	4.3	70	10.04	Egremont	312,929	333,822	6.7	2,635	2,724	3.4	222	8.16
Billerica	289,516	313,531	8.3	3,162	3,449	9.1	130	11.00	Erving	121,961	143,031	17.3	771	908	17.8	331	6.35
Blackstone	232,737	248,535	6.8	2,609	2,863	9.7	195	11.52	Essex	400,496	438,991	9.1	4,081	4,435	8.7	64	10.15
Blandford	164,010	167,719	2.3	2,254	2,050	-9.1	302	12.22	Everett	225,101	278,862	23.9	1,855	2,376	28.1	264	8.52
Bolton	452,878	466,413	3.0	5,996	6,516	8.7	23	13.97	Fairhaven	185,942	252,734	35.9	2,032	2,110	3.8	296	8.35
Boston*									Fall River	180,539	208,549	15.5	1,482	1,587	7.1	321	7.61
Bourne	347,540	401,984	15.7	2,561	2,689	5.0	227	6.69	Falmouth	339,818	458,494	34.9	2,576	2,673	3.8	230	5.83
Boxborough	485,822	508,428	4.7	6,471	6,660	2.9	21	13.10	Fitchburg	163,097	184,037	12.8	2,254	2,365	4.9	266	12.85
Boxford	513,225	607,716	18.4	6,297	6,399	1.6	24	10.53	Florida	79,063	80,673	2.0	921	940	2.1	330	11.65
Boylston	326,914	376,617	15.2	3,760	4,384	16.6	67	11.64	Foxborough	343,485	354,761	3.3	3,720	3,878	4.2	96	10.93
Braintree	298,439	351,407	17.7	2,850	2,945	3.3	183	8.38	Frammingham	298,845	350,237	17.2	3,978	4,129	3.8	76	11.79
Brewster	344,173	431,736	25.4	2,509	2,616	4.3	236	6.06	Franklin	305,456	383,268	25.5	3,372	3,515	4.2	124	9.17
Bridgewater	278,533	342,577	23.0	3,156	3,344	6.0	139	9.76	Freetown	257,198	282,320	9.8	2,703	2,789	3.2	208	9.88
Brimfield	149,925	197,678	31.9	2,699	2,851	5.6	196	14.42	Gardner	122,519	187,162	52.8	2,231	2,353	5.5	267	12.57
Brockton	211,575	239,735	13.3	2,435	2,546	4.6	246	10.62	Georgetown	354,411	398,397	12.4	3,456	3,613	4.5	113	9.07
Brookfield	173,103	176,802	2.1	2,723	2,875	5.6	190	16.26	Gill	126,002	168,050	33.4	2,428	2,405	-0.9	258	14.31
Brookline*									Gloucester	408,780	465,014	13.3	3,928	4,162	6.0	72	8.99
Buckland	140,433	152,959	8.9	2,135	2,301	7.8	271	15.04	Goshen	142,506	163,511	18.2	2,468	2,587	4.8	241	15.35
Burlington	340,233	368,476	8.3	2,756	2,985	8.3	178	8.10	Gosnold	497,948	553,686	11.2	1,210	1,251	3.4	333	2.26
Cambridge*									Grafton	303,870	335,468	10.4	3,285	3,486	6.1	126	10.39
Canton	412,259	440,243	6.8	3,776	4,147	9.8	75	9.42	Granby	157,226	198,144	26.0	2,390	2,711	13.4	226	13.68
Carlisle	723,044	730,874	1.1	9,016	9,224	2.3	4	12.62	Granville	189,877	193,450	2.5	2,596	2,631	1.3	235	13.60
Carver	229,224	278,029	21.3	3,211	3,228	0.6	142	11.97	Grt. Barrington	228,401	245,488	7.5	3,357	3,623	7.9	111	14.76
Charlmont	140,061	159,935	14.2	2,586	2,732	5.6	218	17.08	Greenfield	134,255	158,645	16.7	2,827	2,990	5.8	177	19.09
Charlton	169,010	254,698	50.7	2,251	2,407	6.9	256	9.45	Groton	349,227	410,961	17.7	5,392	5,688	5.5	36	13.84
Chatham	616,717	730,816	18.5	2,775	2,879	3.7	189	9.34	Groveland	323,559	370,517	14.5	3,297	3,475	5.4	128	9.38
Chelmsford	320,799	331,102	3.2	4,212	4,467	6.1	63	13.49	Hadley	174,934	238,028	36.1	2,293	2,387	4.1	262	10.03
Chelsea*									Halifax	255,967	295,014	15.3	3,279	3,422	4.4	133	11.60
Cheshire	125,026	151,334	21.0	1,475	1,542	4.5	328	10.19	Hamilton	442,646	483,780	9.3	5,524	6,057	9.6	28	12.52
Chester	112,365	120,961	7.7	2,286	2,269	-0.7	278	18.76	Hampden	187,276	223,683	19.4	3,266	3,494	7.0	125	15.62

Municipality	FY04 avg. value	FY05 avg. value	Pct. change	FY04 tax bill	FY05 avg. tax bill	Pct. change	FY05 hi-lo rank*	FY05 tax rate	Municipality	FY04 avg. value	FY05 avg. value	Pct. change	FY04 tax bill	FY05 avg. tax bill	Pct. change	FY05 hi-lo rank*	FY05 tax rate
Middleborough	247,492	282,641	14.2	2,888	3,067	6.2	169	10.85	Provincetown	605,432	666,283	10.1	3,300	3,705	12.3	101	5.56
Middlefield	114,658	143,097	24.8	2,236	2,371	6.0	265	16.57	Quincy	289,723	335,481	15.8	3,639	3,637	-0.1	108	10.84
Middletown	427,666	460,745	7.7	4,525	4,695	3.8	55	10.19	Randolph	252,481	292,536	15.9	2,797	2,867	2.5	193	9.80
Milford	272,036	289,429	6.4	3,248	3,424	5.4	132	11.83	Raynham	268,550	308,881	7.8	2,771	3,166	14.3	159	10.25
Milbury	175,337	228,240	30.2	2,634	2,643	0.3	234	11.58	Reading	391,412	419,960	7.3	4,787	5,279	10.3	44	12.57
Millis	244,334	351,973	44.1	3,878	4,083	5.3	80	11.60	Rehoboth	301,320	341,718	13.4	2,914	3,028	3.9	173	8.86
Millville	129,789	271,069	40.6	2,971	3,069	3.3	168	11.32	Revere	182,303	283,853	55.7	2,580	2,875	11.4	191	10.13
Milton	403,116	480,409	19.2	4,886	5,064	3.6	47	10.54	Richmond	263,742	319,932	20.9	2,949	3,078	4.4	167	9.65
Monroe	69,895	69,564	-0.5	1,136	1,106	-2.6	328	15.90	Rochester	206,602	338,011	63.6	2,925	3,113	6.4	161	9.21
Monson	162,214	184,954	14.0	2,591	2,406	-7.1	257	13.01	Rockland	222,417	271,332	22.0	2,956	3,112	5.3	162	11.47
Montague	135,697	152,404	12.3	2,341	2,295	-2.0	273	15.06	Rockport	459,570	493,806	7.4	4,035	4,242	5.1	71	8.59
Monterey	284,214	327,336	26.8	2,092	2,154	3.0	292	6.58	Rowe	130,520	142,572	9.2	469	512	9.2	332	3.59
Montgomery	180,234	193,537	7.4	2,383	2,555	7.2	245	13.20	Rowley	331,076	384,512	16.1	3,761	3,853	2.4	97	10.02
Mt. Washington	280,563	286,908	2.3	1,476	1,429	-3.2	324	4.98	Royalston	115,928	203,629	75.7	1,581	1,694	7.1	319	8.32
Nahant	469,343	521,766	11.2	3,961	4,101	3.5	79	7.86	Russell	144,688	157,715	9.0	2,209	2,271	2.8	277	14.40
Nantucket*	403,904	405,943	0.5	4,108	4,303	4.7	68	10.60	Rutland	209,183	248,035	18.6	2,374	2,726	14.8	221	10.99
Natick	554,681	574,089	3.5	5,242	5,517	5.2	38	9.61	Salem	291,487	315,270	8.2	3,413	3,588	5.1	115	11.38
Needham	157,729	173,865	9.9	2,208	2,257	2.2	281	13.02	Salisbury	255,384	278,900	9.2	2,597	2,716	4.6	224	9.74
New Ashford	133,993	165,314	23.4	1,264	1,276	0.9	327	7.72	Sandisfield	193,821	207,578	7.1	1,818	1,901	4.6	312	9.16
New Bedford	170,851	195,621	14.5	2,113	2,224	5.3	287	11.37	Sandwich	323,007	374,699	16.0	3,295	3,575	8.5	118	9.54
New Braintree	208,833	211,281	1.2	2,635	2,901	10.1	187	13.73	Saugus	300,652	340,237	13.2	2,595	2,838	9.4	199	8.34
New Marlborough	291,640	293,141	0.5	2,041	2,116	3.7	294	7.22	Savoy	113,676	129,597	14.0	1,655	1,709	3.3	318	13.19
Newbury	159,729	173,865	9.9	2,208	2,257	2.2	281	13.02	Scituate	404,046	437,869	8.4	4,040	4,151	2.7	74	9.48
Newburyport	291,493	428,562	47.0	4,165	4,508	8.2	61	10.52	Seekonk	208,450	285,408	36.9	2,914	3,011	3.3	175	10.55
Newton	669,688	743,345	11.0	6,831	7,047	3.2	16	9.48	Sharon	396,294	425,412	7.3	6,491	6,628	2.1	22	15.58
Norfolk	381,609	388,731	1.9	4,553	4,859	6.7	51	12.50	Sheffield	239,571	241,844	0.9	2,894	3,081	6.5	164	12.74
N. Adams	99,215	112,625	13.5	1,318	1,376	4.4	326	12.22	Shelburne	158,059	194,153	24.4	1,949	2,400	23.1	259	12.36
N. Andover	437,771	459,013	4.9	5,148	5,288	2.7	43	11.52	Shelborn	636,434	668,814	4.8	9,591	9,889	3.1	2	14.83
N. Attleborough	222,385	331,525	49.1	2,853	3,080	8.0	165	9.29	Shirley	234,919	260,099	10.7	2,788	2,866	2.8	194	11.02
N. Brookfield	188,106	189,243	0.6	1,960	1,995	1.8	306	10.54	Shrewsbury	328,582	346,425	6.1	3,240	3,374	4.1	137	9.74
N. Reading	366,655	438,647	19.6	4,290	4,878	13.7	50	11.12	Shutesbury	161,199	201,398	24.9	3,417	3,686	7.9	102	18.30
Northampton	220,271	239,587	8.8	2,947	3,079	4.5	166	12.85	Somerset*	188,732	189,912	0.6	2,710	2,796	3.2	207	14.79
Northborough	355,505	367,221	3.3	4,902	4,891	-0.2	49	13.32	Somerville*	188,732	189,912	0.6	2,710	2,796	3.2	207	14.79
Northbridge	194,213	284,893	46.7	2,567	2,581	0.5	242	9.06	S. Hadley	189,769	207,408	9.3	2,879	2,922	1.5	184	14.02
Northfield	151,588	162,867	7.4	1,939	2,235	15.3	285	13.72	Southampton	493,575	529,798	6.5	6,318	6,667	5.5	20	12.68
Norton	258,619	304,202	17.6	3,083	3,261	5.8	147	10.72	Southborough	160,597	179,336	11.7	1,882	2,062	9.0	300	11.50
Norwell	422,269	540,943	28.0	5,566	5,730	2.9	34	10.60	Southbridge	160,597	179,336	11.7	1,882	2,062	9.0	300	11.50
Norwood	290,977	357,995	23.0	2,799	2,961	5.8	182	8.27	Southwick	182,661	184,851	1.2	2,607	2,719	4.3	223	14.71
Oak Bluffs	472,469	541,542	14.6	3,227	3,287	1.9	145	6.07	Spencer	197,668	213,442	8.0	1,660	1,857	11.9	314	8.70
Oakham	162,180	228,375	40.8	1,872	2,044	9.2	304	8.95	Springfield	108,290	120,944	11.7	2,056	2,118	3.0	293	17.51
Orange	105,214	139,689	32.8	1,909	1,985	4.0	307	14.21	Sterling	286,029	298,124	4.2	3,604	3,885	7.8	95	13.03
Orleans	639,418	679,982	6.3	2,820	2,985	5.9	180	4.39	Stockbridge	237,016	435,685	83.8	2,301	2,841	23.5	198	6.52
Otis	207,624	210,422	1.3	1,453	1,559	7.3	322	7.41	Stoneham	315,884	383,534	21.4	3,841	4,012	4.5	89	10.46
Oxford	163,049	211,651	29.8	2,423	2,519	4.0	250	11.90	Stoughton	250,154	307,990	23.1	3,164	3,302	4.4	143	10.72
Palmer	142,540	163,440	14.7	2,263	2,389	4.6	261	14.62	Stow	388,311	423,035	8.9	5,685	6,075	6.9	27	14.36
Paxton	283,201	295,711	4.4	3,639	3,800	4.4	98	12.85	Sturbridge	172,132	263,062	52.8	3,215	3,249	1.1	149	12.35
Peabody	334,202	335,804	0.5	2,704	2,787	3.1	210	8.30	Sudbury	596,201	601,849	0.9	8,025	8,101	0.9	7	13.46
Pelham	282,945	294,304	22.2	4,177	3,937	-5.7	92	15.79	Sunderland	181,723	225,541	24.1	2,682	3,250	21.2	148	14.41
Pembroke	293,540	351,351	19.7	3,446	3,535	2.6	122	10.06	Sutton	248,182	312,091	25.8	3,068	3,208	4.9	155	10.28
Pepperell	224,237	308,439	37.6	2,969	3,121	5.1	160	10.12	Swampscott	453,487	497,314	9.7	5,496	5,615	2.2	37	11.29
Peru	108,128	129,008	19.3	2,054	2,064	0.5	299	16.00	Swansea	154,204	269,106	74.5	1,982	2,177	9.8	291	8.09
Petersham	223,465	224,949	0.7	2,939	3,100	5.5	163	13.78	Taunton	224,667	261,262	16.3	2,062	2,257	9.5	282	8.64
Phillipston	152,699	178,062	16.6	1,774	1,866	5.2	317	10.48	Templeton	161,071	186,636	15.9	1,876	1,850	-1.4	315	9.91
Pittsfield	106,562	143,036	34.2	2,157	2,239	3.8	284	15.65	Tewksbury	302,507	331,007	9.4	3,143	3,343	6.4	141	10.10
Plainfield	132,004	174,040	31.8	1,980	2,269	14.6	279	13.04	Tisbury*	185,625	188,337	1.5	995	1,040	4.5	329	5.52
Plainville	253,239	306,781	21.1	3,323	3,620	8.9	112	11.80	Tolland	487,405	527,573	8.2	5,946	6,363	7.0	25	12.06
Plymouth	273,821	308,979	12.8	3,324	3,223	-3.0	151	10.43	Tonfield	211,934	237,700	12.2	2,982	3,214	7.8	153	13.52
Plymouth	200,680	353,844	35.7	4,160	4,430	6.5	65	12.52	Townsend	511,297	653,665	27.8	3,027	3,040	0.4	171	4.65
Princeton	299,497	326,713	9.1	3,807	4,064	6.8	82	12.44	Truro	307,983	339,539	10.2	3,911	4,024	2.9	88	11.85
Tyngsborough									Tyngsborough								

Table 1

*Cities and towns with significant exemptions do not provide sufficient data for this analysis.

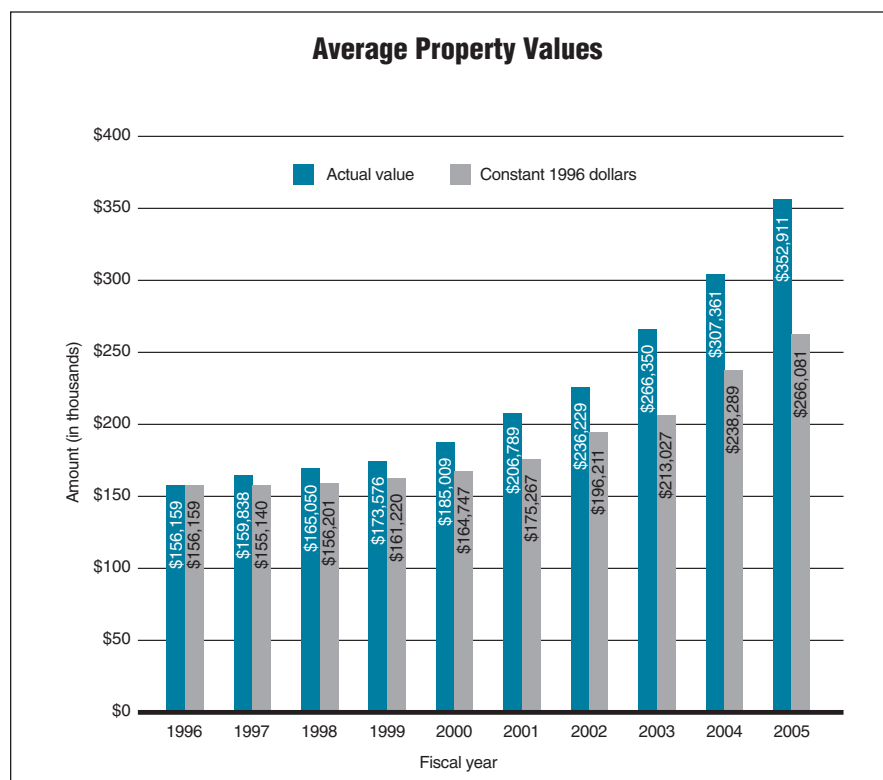
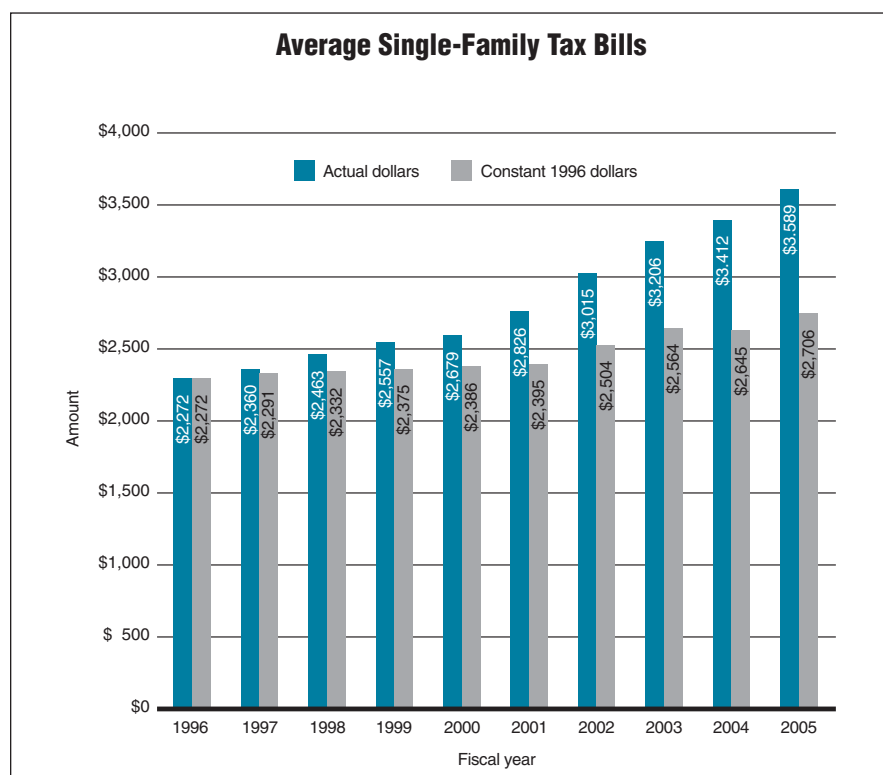
*This category ranks communities from high to low based on FY05 tax bills.

Hancock and Wendell had not set tax rates at the time of this analysis and are therefore excluded from this table.

State totals: 307,361 352,911 14.8 3,412 3,589 5.2 10.17

FY05 Average Single-Family Tax Bills and Assessed Values

continued from page three



Figures 2 and 3

crease in the passage of Proposition 2½ overrides and capital exclusions. In FY04, communities passed overrides and capital exclusions that totaled \$41.8 million. In FY05, the total was \$30.5 million. This was the second year in a row with such a decrease.

Debt excluded under Proposition 2½ increased slightly in FY05. Statewide, the amount of excluded debt only went up from about \$313.9 million in 2004 to \$314.6 million in 2005. However, during the four year period from 2002 to 2005, the amount jumped by more than 17 percent. Excluded debt service adds to the maximum allowable levy for cities and towns and therefore directly impacts the tax bill.

Community Trends

Table 1 shows the average single-family tax bill and average assessed value for all 338 communities in the study. It compares these figures to those of FY04 and it ranks the communities from high to low for the FY05 tax bill.

The five communities with the highest average tax bills in FY04 retained their rankings in FY05. They are: Weston (\$11,767), Sherborn (\$9,889), Lincoln (\$9,730), Carlisle (\$9,224), and Dover (\$9,004). Not surprisingly, these towns also all ranked among the highest with respect to average assessed property value. The five communities with the lowest tax bills also remained unchanged: Rowe (\$512), Erving (\$908), Florida (\$940), Tolland (\$1,040), and Monroe (\$1,106). These towns are all in the lower 20 percent of average assessed values. Statewide, the correlation between the average tax bill and average assessed value is generally strong with a few exceptions. For example, communities on the Cape and Islands tend to have high assessed values but lower tax bills due to the large number of seasonal properties whose residents have a lower demand for services. An even stronger correlation exists between average household income and average tax bill. All but

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Procurement of Banking Services

Massachusetts Office of the Inspector General

The Office of the Inspector General (OIG) has issued *Banking Services Procurement Guide for Local Government Treasurers* to clarify the procurement rules for obtaining banking services. The guide provides a brief overview of M.G.L. Ch. 30B, provides recommendations for banking service procurement, and identifies resources for local officials.

The Commonwealth's cities and towns may obtain a wide range of services from banking institutions including collection services, depository account services, disbursement services, credit services and investment services.

Chapter 30B, the Uniform Procurement Act, establishes procedures that most local government jurisdictions must follow for the acquisition and disposition of supplies, equipment, services, and real property.

Chapter 30B requires a competitive procurement process using an Invitation for Bids or Request for Proposals for banking service contracts estimated to cost \$25,000 or more. For contracts estimated to cost less than \$25,000, but more than \$5,000, Chapter 30B re-

quires three price quotations. Contracts costing \$5,000 or less must be entered into using sound business practices.

There are seven exemptions to Chapter 30B that are relevant to municipal treasurers. For example, banking services obtained under a compensating balance agreement are governed by M.G.L. Ch. 44, Section 53F and therefore exempt from Chapter 30B. The Department of Revenue, Division of Local Services, Bureau of Accounts is responsible for the interpretation and enforcement of the compensating balance law.

Additionally, the issuance of bonds, notes, or securities is exempt from Chapter 30B. The following services can safely be considered to be a part of a bond issuance: structuring of the maturity schedule; preparation of the official statement; verifying legal documents; the acquisition of a credit rating; the obtaining of approval from government agencies; the advertisement of the proposed sale; the distribution of the official statement to potential bidders; and the filing of initial and annual disclosure documents with federal and state regulatory agencies.

Numerous recommendations are provided in the guide for jurisdictions to follow for all banking service procurements and contracts. For example, the

OIG recommends that all banking services be procured competitively. Having banks compete over a municipality's business allows a treasurer to assess what is available and ensures that the municipality is getting the best value.

Additionally, the need to re-procure services prompts a review of the need for those services and the quality of the services currently being received.

This Office recommends that municipalities *always* enter into written agreements or contracts for banking services. A written agreement, contract, or any written documentation between a municipality and a bank can ensure that the municipality is fully complying with public records requirements as well as meeting the responsibility of sound business practices.

Finally, the OIG recommends that treasurers consider the protection of the taxpayer's money. When taking a risk with taxpayers' money, it is imperative that the risk be an educated one. Therefore, treasurers should conduct a thorough review of the qualifications, experience, and expertise of any financial/investment advisor and/or consultant.

For a copy of this guide, please visit our website at www.mass.gov/ig. Questions can be submitted by telephone by calling 617-727-9140 or by mail. ■

FY05 Average Single-Family Tax Bills and Assessed Values

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one of the communities with the 50 highest tax bills have average incomes in the top 20 percent statewide.

In FY05, 11 communities experienced increases in their average tax bills that were greater than 15 percent (ranging from 15.3 percent to 28.1 percent). All but one of these communities also saw their average assessed values increase by at least 10 percent. Four of the eleven successfully passed Proposition 2½ overrides.

While all but five communities across the state experienced increases in the average assessed value, the magnitude of the changes varied dramatically

in 2005. There were 64 cities and towns in which the average value increased by less than 5 percent. However, of the 148 communities that had increases above the statewide average (14.8 percent), 56 communities had increases greater than 30 percent. Of these, 15 were greater than 50 percent. Swansea, Royalston, and Stockbridge each experienced increases above 70 percent.

Further analysis of the average assessed values show a correlation to DLS' community recertification schedule. All but six of the 56 communities with value increases over 30 percent just completed a triennial recertification

in 2005. Only one of the 64 communities with increases under 5 percent had a recertification in 2005. Of the cities and towns below the statewide increase average, 82 percent were also non-certification communities. These figures reflect the fact that leading up to 2005, several communities were not yet performing interim year adjustments to values. Now that interim year adjustments are required for all communities, such sudden and uneven jumps in average assessed value should not occur as frequently. ■

HAC Appeals

income units, or the municipality may show that it has an affordable housing plan approved by the Department of Housing and Community Development and the municipality has met the yearly minimal requirements for compliance with that plan.

Either party may also submit a motion for summary decision at any time prior to the conclusion of the formal hearing proceedings. This may be done with or without supporting affidavits or memorandum of law. The motion may request that the hearing officer decide all or only part of the issues in dispute. The amount of time necessary for the HAC to render a decision on summary decision varies based on the nature and number of arguments presented and whether the decision will be dispositive of the entire appeal, which might require review and a vote by the full Committee.

The Use of Prefiled Direct Testimony

In addition to the use of the motions practice, prefiled testimony reduces the amount of time needed for disposition of an appeal by limiting the hearing to cross-examination on the issues established as part of the prefiled testimony. However, this procedure is not necessarily appropriate for all cases. Occasionally the presiding officer may determine that it is more appropriate to require that all of the testimony in a particular case be oral testimony. Deadlines for prefiled testimony are established by HAC Standing Order No. 04-02, which directs that the prefiled testimony of both parties be completed within 16 weeks from the date of the

continued from page one

prehearing conference. Witnesses whose testimony is prefiled will be required to appear for cross-examination during the hearing, unless the parties agree otherwise. All cross-examination will now normally be completed on consecutive days, which will also aid in expediting the hearing process. In conjunction with the prefiled testimony, a party may make a motion for directed decision in its favor after the submission of prefiled testimony, on the grounds that upon the facts or the law the non-moving party has failed to prove a material element of its case or defense.

Promoting Affordable Housing

Since its enactment, the Comprehensive Permit Law has been an effective means by which to ensure the continued construction of affordable housing. It has been estimated that this law has resulted in the development of more than 30,000 housing units in approximately 200 Massachusetts cities and towns. The changes in procedure discussed herein have resulted both in a decrease in the amount of time needed to resolve an appeal and also appear to be promoting the resolution of cases through voluntary settlement. Municipalities can access Recent Decisions by the HAC, as well as review its Regulations, Standing Orders and Guidelines for Local Review of Comprehensive Permits at www.mass.gov/dhcd/components/hac. ■

Glenna Sheveland is an associate with Petrini & Associates, P.C., in Framingham, and formerly was Counsel to the Housing Appeals Committee.

Legal

continued from page two

Ch.150E, Sec. 7(d) as a provision superceded by a conflicting provision of a collective bargaining agreement, section 7(d) listed only statutes specifically dealing with terms and conditions of employment, which are the only such provisions intended to be superceded by such an agreement. M.G.L. Ch. 59, Sec. 21C(m) is not a statute dealing with terms and conditions of employment, but is a provision intended to authorize appropriations contingent on a ballot vote to override the tax levy limits imposed by law. The town cited several cases that said the labor relations commission would not dictate the funding source of an appropriation request, but in all the cases the commission had required the towns to submit a full funding request.

The dissent emphasized that contingent appropriations had become a regular tool in the budgeting process and that it could be harmonized with chapter 150E. Justice Sosman pointed out that many appropriations required steps from other parties before they might be finalized, and a Proposition 2½ contingent request was merely one such appropriation. The dissent further suggested that eliminating this provision might make more executive officers reluctant to agree to minimum staffing provisions in the future. It pointed out that in this case there was no claim that the executive officers did not fully support the appropriation and the override vote.

Finally, while the case does require the executive officers to place a non-contingent article on the warrant to fund a minimum staffing provision, it did not require the town meeting to take a non-contingent vote. The finance committee still appears free to move that the vote be made contingent on passage of an override, as well as any town citizen, and town meeting could so vote. ■

DLS Update

Graziano and Sandell Earn Designation

Deputy Commissioner Gerard D. Perry has announced that Joanne Graziano and Grace Sandell of the Bureau of Local Assessment have earned the International Association of Assessing Officers' (IAAO) designation of Assessment Administration Specialist (AAS).

Joanne is the Bureau's certification supervisor and Grace is a certification advisor.

According to the IAAO, "[T]he purpose of the AAS designation is to recognize professionalism and competency in administration of a variety of functions for property tax purposes."

To qualify for the AAS designation candidates must fulfill certain requirements, such as successful completion of several IAAO courses, an assessment administration case study examination, and have at least three years' experience in the assessment field. The candidate must also pass a four-hour AAS master examination.

Marilyn H. Browne, chief of the Bureau of Local Assessment, said, "Joanne and Grace's most recent achievement exemplify their professionalism and steadfast search for knowledge in the appraisal and assessment administration fields. They are to be commended."

Joanne has worked for the Division of Local Services for four years and supervises a staff of 10 appraisal certification advisors who work in the Boston and regional offices. Grace has worked for the Division for almost seven years. She works with assessors in 34 communities located on the South Shore, Cape Cod and Nantucket.

Schedule A Reminder

Schedule A is a detailed statement of revenues and expenditures that cities and towns must prepare and submit to the Department of Revenue each fiscal year no later than October 31. Town accountants and city auditors usually are responsible for completing Schedule A. This information is added to the Division of Local Services' (DLS) Municipal Data Bank, and is used by many state agencies and the Legislature for research and analysis of various programs. DLS also provides Schedule A data to the U.S. Census Bureau for use by federal agencies.

Section 3 of the state budget authorizes the Commissioner of Revenue to delay payment of state aid to cities and towns that miss the filing deadline. In January and May 2005, DLS sent reminders to several communities advising them to submit these reports or face a delay in receiving local aid payments. Some communities complied with this notice. Others experienced delays in receiving their third and fourth quarter state aid payments because they still had not submitted Schedule A.

Deputy Commissioner Gerard D. Perry is urging cities and towns to make every effort to comply with the Schedule A filing deadline. If your community experiences any problem with filing the Schedule A, your Bureau of Accounts field representative is available to offer assistance or answer questions regarding this matter.

Municipal Job Duties Online

The Division of Local Services' (DLS) Technical Assistance Section has published a list of the legal duties and responsibilities of the accountant, treasurer, collector and the assessing department on the DLS website (www.mass.gov/dls). This information on "Job Responsibilities" is listed under the heading "Financial Management Assistance." The direct link is www.mass.gov/dls/mdmstuf/Technical_Assistance/Jobs/jobs_index.htm.

The duties and responsibilities of municipal finance officers, as well as appointed or elected boards, are rooted in state law and regulations. Explanations and guidelines are also included in operations manuals published by the various professional organizations, often times in collaboration with DLS.

This section summarizes, and provides links to the legal citations of, fundamental job responsibilities for financial officers that are critical to sound financial management practices.

In addition to Job Responsibilities, other sections under Financial Management Assistance include Best Practices, Restructuring City and Town Government, and Benchmarks and Spreadsheets. This site also includes links to the Open Meeting Law Guidelines, the School Building Authority, the Massachusetts General Laws and various DLS publications. ■

DLS Profile: Executive Director, Springfield Finance Control Board

In July 2004 the governor and the state Legislature established a Finance Control Board to oversee the operations of the City of Springfield. What was estimated at that time to be a budget deficit of \$22 million for FY05 was discovered, after the initial review of the city's financial accounts, to be \$41 million.

With 13 years of senior executive experience, **Philip Puccia** was hired by the control board in August 2004 to turn around Springfield's fortunes. Before coming to the control board, Phil spent two years as vice president of operations and general manager of a smart card company. He was also the managing director of a consulting and investment banking practice that focused on transportation. In the 1990s, he worked in various management positions for the Commonwealth in the Highway Department, Executive Office of Transportation and Massachusetts Bay Transportation Authority (MBTA).



Philip Puccia

In an interview in *BusinessWest* (available online at www.businesswest.com/arch3.05a/index.html), Puccia compared the fiscal crisis in Springfield to the problems he faced at the MBTA. "When I arrived at the MBTA...[t]here was a \$40 million budget deficit....What you found was ...a management culture that didn't focus on performance and accountability. And no one paid attention to the bottom line."

Puccia went on to say that turning around Springfield's fortunes involves more than cutting expenses and raising revenues. "It is also seeking something that has been missing from the equation of Springfield's municipal operations — accountability." However, over the past year, Puccia said that the control board has taken a number of steps to reduce health care costs and day-to-day spending. Also, the control board is working to promote accountability and efficiency by reorganizing the structure of the city's government.

In his FY06 budget message, Puccia said "we still have far to go." The FY06 provisional budget, without the inclusion of employee raises, projects a deficit of approximately \$6.5 million.

While Puccia emphasizes that there is still a lot of hard work to do, he said that he enjoys a close working relationship with Mayor Charles Ryan and his senior staff. "That relationship has served us well in meeting the challenges that we have had to face over the past year."

Revenue Commissioner Alan LeBovidge, who is the chairman of the Springfield Finance Control Board, said that, "Phil is really doing a great job in Springfield. He is like a juggler. We are moving on so many fronts out there, trying to improve services for the citizens of Springfield and trying to close the budget gap. Phil is juggling many issues at the same time."

Phil lives with his family in Andover. He holds a bachelor's degree in political science from Fordham University and a master's degree in business administration from the University of Massachusetts. ■

State Revenues Eclipse Expectations by \$436 Million in FY05

Revenue Commissioner Alan LeBovidge announced that preliminary revenue collections for FY05 were \$17.086 billion, an increase of \$1.133 billion or 7.1 percent over FY04. Total tax collections for FY05 exceeded the revised yearly benchmark by \$436 million. It was the first time the Department of Revenue had collected \$17 billion in a fiscal year.

"All tax types had improved collections in FY05," LeBovidge said. "Only sales and use tax fell below the yearly estimate and that was due to a one-time accounting adjustment of \$18 million. Income tax collections accounted for much of the increase versus the benchmark."

Income tax collections for FY05 totaled \$9.690 billion, an increase of \$860 million or 9.7 percent over FY04. Withholding tax collections totaled \$7.674 billion, an increase of \$306 million or 4.1 percent. Sales and use tax collections were \$3.886 billion, up \$137 million or 3.7 percent. Corporate and business tax collections totaled \$1.706 billion, an increase of \$31 million or 1.8 percent. ■

City & Town

City & Town is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.

Joan E. Gourke, Editor

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